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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/019,634	12/27/2001	Aroon Raman	60556-303620	8671

7590 04/02/2003

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EXAMINER

LEVY, NEIL S

ART UNIT	PAPER NUMBER
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1616

DATE MAILED: 04/02/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

019634

Applicant(s)

ARON et al

Examiner

MTC/amy

Group/Art Unit

16/6

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—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on 4/23/02
- ☐ This action is FINAL.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-21, 26-34 is/are pending in the application.
- Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1-21, 26-34 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☒ The proposed drawing correction, filed on 10/3/02 is ☒ approved ☐ disapproved.
- ☒ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☒ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
- ☐ received in Application No. (Series Code/Serial Number) _____.
- ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____ ☐ Interview Summary, PTO-413
- ☒ Notice of Reference(s) Cited, PTO-892 ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948 ☐ Other _____

Office Action Summary

Art Unit: 1616

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 13, 34 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

13 utilizes indefinite preferably, 34 has no antecedent in 11 for promoter.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

Art Unit: 1616

Claims 1-6, 11, 13, 14, 18-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Kuan-GB 2139498.

Kuan meets instant claims 1 and 20; a substance delivery device, mosquito coil, combustible (p.1, lines 3-7) of toxic pyramin forte and perfume (lines 68-85) as a paperboard strip of gum wood powder, wood powder on a thin paper backing (lines 36-54) of rectangular (strip) shape. The filler includes combustion promoter, charcoal powder (instant claims 5, 6). The method of manufacture, as instantly claimed, is at p.1, lines 87-106, and claim 14.

The wood powder, fibrous structures, are mixed with insecticides, perfume, fluid, as paste, applied to backing, and dried. The instant claim requires no particular order; is not shown as critical to the steps. Since the process is as of the instant invention, the otherwise undefined paperboard strip is also that of Kuan-theory the instant claim 2-4 (col.1, p.1, lines 37-49).

Claims 1, 2, 5, 6, 8-10, 20, 26-28, 34 are rejected under 35 U.S.C. 102(b) as being anticipated by Eisner et al-5447713.

Here too, a paperboard strip of wood fiber (fig. 2) provides the instant mosquito coil (claim 1) of the instant density and (col.2, lines 17,18) thickness. The instant claim permit, in comprising guise, the non-critical size of the greater range, even though flexible (col.2, lines 9-26) with adhesives-binders-of Eisner. Promoters are at col.1, lines 54-58, cutting at col.3, lines 34-37. Dye is at col.2, line 57.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 5, 6, 8, 9, 11, 16-21, 26, 27, 29-34 are rejected under 35 U.S.C.

103(a) as being unpatentable over CN2 3564954 in view of Borden~~ea~~^{ea} -3767785,

Wapler-2224622 and Yano et al. 5055491.

CN shows paper strips as insect repellent, with shape, dimensions, density and repellent unspecified-a dye is used.

Bordenea discloses insect repellences of articles fabricated as desired to control, mosquitoes (col.1, lines 47-58). There include paper, paperboard, cardboard, as cellulosic sources, of any grade (col.4, lines 7-60) with dyes, insect repellent, adhesives incorporated in or the paper. Also, cellulosic fibers of cotton (line 70, col.4, line 31, col.5) and of wick or wool may be used; all generally reorganized as combustible, although not so stated by Bordenea. Thus the paper strips of CN, are shown as processed to include an ingredient toxic to insects, prepared as desired, by non-critical methods as to include impregnating, saturating, coating.

Waples (above) shows the use in insect toxicants, for mosquito, inclusive of the known cellulosic fibers-combustible, of paper or other, vegetable fibers.

Yano also shows vegetable powder-pyrethrummarc, cotton fibers, and promoters-ethyl cellulose-wood powder-sulfides- (col.9, line 58-col.10, line 17) with pyrethroid toxic ants (III, col.2, formulations 9-11). Size, thickness, and formation in indicated.

It would have been obvious to a person of ordinary skill in the art at the time the invention was made desiring to utilize mosquito repellent to use that of CN, prepared in non-critical manner of paper or alternative materials for the purpose at hand, with selection of equivalent materials shown by Bordenea, shown by Waples and Yano to commonly include added promoters, pyrethrum and preparation of suitable combustible form, as desired.

Applicant has not provided any objective evidence of criticality, nonobvious or unexpected results that the combination of the particular ingredients' or concentrations provides any greater or different level of prior art expectation as claimed. The amounts, forms and proportions of each ingredient are result effective parameters chosen to obtain the desired effects. It would be obvious to vary the form of each ingredient to optimize the effect desired, depending upon the particular species and application method of interest, reduction of toxicity, enhanced, and prolonged, or synergistic effects, and the use of ingredients for the functionality for which they are known to be used is not basis for patentability.

The instant invention provides well known old art recognized compounds, with well known art recognized effects, applied by well known art recognized methods to achieve control over pests.

Claims 1, 5-7, 11-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Waples-2224622.

Paper pulp, toxic and perfume (pine tar), with charcoal (less than 10%) are mixed and dried, then lit (page 2, lines 12-36). Preparation is at p.1, col.2, lines 7-54.

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The instant invention as claimed^{of}. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Elliott, D'orazio, Kanoathil also show the instant combustible fibers, and insect toxic ants.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Neil Levy whose telephone number is 308-2412. The examiner can normally be reached on Tuesday- Friday 7:00 am to 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jose Dees can be reached on 308-4628. The fax phone numbers for the organization where this application or proceeding is assigned are 308-4556 for regular communications and 872-9307 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 308-1235.

Levy/tgd
March 12, 2003



NEIL S. LEVY
PRIMARY EXAMINER